

UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Helmut Jerg
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Group Art Unit: 1792
Examiner: Jason Paul Riggleman
Title: DISHWASHER WITH COMMINUTION DEVICE

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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REPLY BRIEF

Pursuant to 37 CFR 41.41, Appellants hereby file a reply brief in response to the Examiner's Answer dated March 17, 2010, in the above-identified application, within the 2-month reply deadline.

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(1) REAL PARTY IN INTEREST

The real party in interest is BSH Bosch und Siemens Hausgeräte GmbH.

(2) RELATED APPEALS AND INTERFERENCES

There are no appeals or interferences that will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) STATUS OF CLAIMS

Claims 11-20 are pending in the present application. Claims 1-10 were canceled. Claims 17-20 are allowed. Claims 11, 17, and 19 are independent. The final rejections of claims 11-16 are being appealed.

(4) STATUS OF AMENDMENTS

There are no outstanding Amendments. The Advisory Action dated November 13, 2009, entered the Response filed on October 9, 2009.

(5) SUMMARY OF CLAIMED SUBJECT MATTER

An exemplary embodiment of the present invention, as recited by, for example, independent claim 11, is directed to a dishwasher comprising:

a washing container for receiving items to be washed by the dishwasher (see, e.g., page 1, lines 5-10; page 6, lines 14-15; Figures 1-2);

a circulatory pump (e.g., 6) for circulating a rinsing liquid into contact with items received in the washing container (see, e.g., page 2, lines 8-10; page 6, lines 19-21); and

a comminution device (e.g., 12) for comminuting rinsing residue, the comminution device (e.g., 12) and the circulatory pump (e.g., 6) being operatively interconnected in a manner such that the comminution device (e.g., 12) is temporarily driven by the circulatory pump (e.g., 6) (see, e.g., page 2, lines 21-28; page 6, lines 26-30; page 7, lines 1-10).

Another exemplary embodiment of the present invention includes a safety-friction clutch (e.g., 17, 18), wherein a drive coupling between the comminution device (e.g., 12) and the circulatory pump (e.g., 6) is made by means of the safety-friction clutch (e.g., 17, 18) (see, e.g., page 2, lines 30-32; page 3, lines 1-6 and 17-32; page 4, lines 1-9; page 7, lines 21-27).

In another exemplary embodiment of the present invention, the comminution device (e.g., 12) and the circulatory pump (e.g., 6) are operatively interconnected such that the drive of the comminution device (e.g., 12) is effected by means of an impeller (e.g., 7) of the circulatory pump (e.g., 6) (see, e.g., page 3, lines 8-15 and 28-32; page 4, lines 1-9; page 7, lines 1-19).

In another exemplary embodiment of the present invention, the comminution device (e.g., 12) and the circulatory pump (e.g., 6) are operatively interconnected such that a drive coupling between the comminution device (e.g., 12) and the circulatory pump (e.g., 6) is made by means of a connecting shaft (e.g., 8) that is a selected one of axial displaceable and non-axially displaceable (see, e.g., page 3, lines 17-32; page 4, lines 1-9; page 5, lines 4-8; page 5, lines 18-24; page 7, lines 12-27).

In another exemplary embodiment of the present invention, the connecting shaft (e.g., 8) is selectively axially displaceable into engagement with the circulatory pump (e.g., 6) such that a drive coupling between the comminution device (e.g., 12) and the circulatory pump (e.g., 6) is made by means of an axial displacement of the connecting shaft (e.g., 8) into engagement with the circulatory pump (e.g., 6) and a drive coupling between the comminution device (e.g., 12) and the circulatory pump (e.g., 6) is broken as desired by means of an axial displacement of the connecting shaft (e.g., 8) out of engagement with the circulatory pump (e.g., 6) (see, e.g., page 3, lines 17-32; page 4, lines 1-9; page 5, lines 4-8; page 5, lines 18-24; page 7, lines 12-27).

In another exemplary embodiment of the present invention, the connecting shaft (e.g., 8) between the comminution device (e.g., 12) and the circulatory pump (e.g., 6) is selectively couplable to the hub (e.g., 17) of the impeller (e.g., 7) of the circulatory pump (e.g., 6) (see, e.g., page 3, lines 17-32; page 4, lines 1-9; page 5, lines 4-8; page 5, lines 18-24; page 7, lines 12-27; page 8, lines 1-7).

In this manner, the present invention provides a dishwasher with a comminution device (e.g., 12) that can be operated only temporarily, i.e. it can be specifically switched on and off as required. Hence, the comminution device (e.g., 12) can be activated only, for example, when coarse rinsing residue occurs in the dishwasher, such as during the pre-rinse phase or during the washing process. The temporary operation of the comminution device (e.g., 12) provides an important advantage in that the comminution device (e.g., 12) can be driven only as needed, thereby reducing the energy consumption for driving the comminution device (e.g., 12) and also protecting the comminution device (e.g., 12). See, e.g., page 2, lines 21-28.

(6) GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

- a. Whether claim 12 is indefinite under 35 U.S.C. 112, second paragraph, for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
- b. Whether claims 11-16 are anticipated under 35 U.S.C. § 102(b) by the Miller et al. reference (EP 1057445).

(7) ARGUMENT

- a. Claim 12 is not indefinite under 35 U.S.C. 112, second paragraph, for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The final Office Action dated August 17, 2009, rejected claim 12 under 35 U.S.C. 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The Examiner's Answer dated March 17, 2010, stated that "[t]he previous 112, second paragraph, rejection of claim 11 is withdrawn in view of the Appellant's arguments." See Examiner's Answer at page 4, first paragraph. Since claim 12, not claim 11, was rejected under 35 U.S.C. § 112, second paragraph, Appellants believe that the Examiner's Answer is intending to withdraw the rejection of claim 12. As such, Appellants gratefully acknowledge the indication by the Examiner's Answer that the rejection of claim 12 under 35 U.S.C. § 112, second paragraph, is withdrawn.

If, however, the rejection of claim 12 is not being withdrawn, then Appellants respectfully incorporate herein by reference the traversal arguments with respect to claim 12 in the Appeal Brief dated January 7, 2010.

- b. Claims 11-16 are not anticipated under 35 U.S.C. § 102(b) by the Miller et al. reference (EP 1057445

In the Office Action, claims 11-16 are rejected under 35 U.S.C. § 102(b) as being anticipated by the Miller et al. reference (EP 1057445).

The Advisory Action dated November 13, 2009, states that applicant's arguments are not persuasive and Examiner maintains that Miller teaches the limitations of claim 11. The Advisory Action states that applicant's arguments appear to be assertions that the art does not

teach the claimed invention. The Advisory Action asserts that applicant's arguments are not understood since they allegedly recite features of the claims and then features of the prior art and then assert that the art does not teach the claimed invention. Clarification is requested.

Appellants respectfully traverse this rejection.

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. [...] The identical invention must be shown in as complete detail as is contained in the ... claim." M.P.E.P. § 2131.

Independent Claim 11

Appellants note that in the Response to Arguments, the Office Action states that the phrase "temporarily driven" appears to be vague claim language. The Office Action further states it is not known "What structural feature is being claimed by "temporarily driven"?" and asserts that "[i]t can only be assumed that the comminution device is driven by the circulatory pump; therefore, the Miller et al. rejection is maintained."

First, Appellants respectfully submit that, if claim 11 is considered vague, then a new ground of rejection under 35 U.S.C. § 112 properly should be established in a new non-final Office Action.

Second, contrary to the assertions in the Response to Arguments, Appellants respectfully submit that, when properly considered as a whole and in the context of the surrounding text of the claim, the language of claim 11 is not vague and clearly defines the structural relationship between the comminution device and the circulatory pump of the claimed invention.

Claim 11 recites "a comminution device for comminuting rinsing residue, in which the comminution device and the circulatory pump are operatively interconnected in a manner such that the comminution device is temporarily driven by the circulatory pump." These features clearly define the structural relationship between the comminution device and the circulatory pump.

Thus, when properly considered as a whole and in the context of the surrounding text of the claim, claim 11 very clearly defines the structural features of the claimed invention.

Third, Appellants respectfully submit that the Miller et al. reference does not disclose all of the features of the claimed invention including “a comminution device for comminuting rinsing residue, in which the comminution device and the circulatory pump are operatively interconnected in a manner such that the comminution device is temporarily driven by the circulatory pump,” as recited in independent claim 11. As explained above, these features are important, for example, for switching the comminution device on and off as required, thereby reducing the energy consumption for driving the comminution device and also protecting the comminution device. See, e.g., page 2, lines 21-28.

Contrary to the assertions in the Office Action, the Miller et al. reference very clearly does not teach or suggest at least that the comminution device and the circulatory pump are operatively interconnected in a manner such that the comminution device is temporarily driven by the circulatory pump, as recited in claim 11.

Instead, the Miller et al. reference discloses that the comminution device and the circulatory pump are permanently rotatably engaged and driven. The device of the Miller et al. reference does not decouple or disengage the driving of the comminution device from the circulatory pump during operation of the pump. Indeed, the Miller et al. reference does not disclose anything that is remotely close to operating the circulatory pump with the comminution device disengaged or decoupled from the circulatory pump. Instead, the Miller et al. reference is designed to rotate the second end 258b using the drive extension 260 while accommodating axial tolerance (i.e., tolerance along the axis of rotation; see, e.g., paragraph [0029], last sentence) with regard to the end of the drive extension 260 during the operation (i.e., rotation) of the circulatory pump and the comminution device. The drive extension 260 remains rotatably engaged with the second end 258b despite axial movement of the drive extension 260 with respect to the second end 258b. See, e.g., paragraphs [0008], [0020], [0023], [0029], [0030], and [0035].

In the Response to Arguments, the Office Action further asserts that the features of detaching couplings, etc. are not claimed in claim [11] (sic), as drafted. Appellants respectfully submit that Appellants' traversal arguments regarding the alleged "detachable coupling" are directed to the Miller et al. reference, not the language of the claims. In contrast, the comminution device and the circulatory pump are operatively interconnected in a manner such that the comminution device is temporarily driven by the circulatory pump, as recited in claim 11.

The Miller et al. reference very clearly does not teach or suggest at least that the comminution device and the circulatory pump are operatively interconnected in a manner such that the comminution device is temporarily driven by the circulatory pump, as recited in claim 11.

As explained above, the Miller et al. reference discloses that the "detachable coupling" between the second end 258b and the drive extension 260 is designed to accommodate the tolerance T in the end location of the drive extension. When read in the context of the Miller et al. reference as a whole, the teaching of accommodating the tolerance T does not mean that the second end 258b is rotatably disengaged from the drive extension 260 such that the comminution device is disengaged from the circulatory pump. Instead, in the Miller et al. reference, the second end 258b is not fixed with respect to an axial position (tolerance T) of the drive extension 260. However, the comminution device remains operatively rotatably engaged with the drive extension irrespective of the tolerance T.

For these reasons, the Miller et al. reference does not disclose at least "a comminution device for comminuting rinsing residue, in which the comminution device and the circulatory pump are operatively interconnected in a manner such that the comminution device is temporarily driven by the circulatory pump," as recited in independent claim 11.

As explained above, these features are important, for example, switching the comminution device on and off as required, thereby reducing the energy consumption for driving the comminution device and also protecting the comminution device. See, e.g., page 2, lines 21-28.

For these reasons, the Miller et al. reference does not disclose all of the features of claim 11.

The Examiner's Answer dated March 17, 2010

First, in response to Appellants' argument that, if claim 11 is considered vague, then a new ground of rejection under 35 U.S.C. § 112 properly should be established in a new non-final Office Action, the Response to Arguments of the Examiner's Answer dated March 17, 2010, clarifies that no rejection under 35 U.S.C. § 112 is being made on claim 11. The Examiner's Answer clarifies that the position is being taken that Appellant allegedly is attempting to read limitations into the claims by stating that the limitation of "the comminution device is driven temporarily" means "for switching the comminution device on an off as required" (citing Appellant's Appeal Brief at page 10, 3rd paragraph). The Examiner's Answer clarifies that the Examiner stated that "temporarily driven" was vague only to indicate to the Appellant that the limitation is very broad and can be construed broadly during examination.

Appellants respectfully traverse these positions.

Contrary to the assertions in the Examiner's Answer, Appellants respectfully submit that limitations are not being read into the claims. Rather, Appellants respectfully submit that the rejection fails to properly consider all of the features of the claimed invention as a whole and in the context of the claim, and to give the claims the broadest reasonable interpretation consistent with the specification. As explained above, Appellants have identified the features of the claims that distinguish the invention from the Miller et al. reference and also have explained the important advantages being provided by such distinguishing features.

Second, in response to Appellants' traversal of the rejection of claim 11, the Examiner's Answer asserts that Appellants' arguments are not commensurate in scope with the claims. The Examiner's Answer asserts that the claims require an apparatus in which "a comminution device rinsing residue, in which the comminution device and the circulatory pump are operatively interconnected in a manner that the comminution device is temporarily

driven by the circulatory pump". The Examiner's Answer asserts that the claims are broadly written and the fact that the comminution device can be disassembled (detached/decoupled) from the pump impeller anticipates the claim. The Examiner's Answer asserts that claim 11, as drafted, does not require the device of the Miller et al. to decouple or disengage the driving of the comminution device from the circulatory pump during operation of the pump. The Examiner's Answer asserts that this argument is moot.

The Examiner's Answer also asserts that the reference teaches that the comminution end (258b) is designed to "detachably couple" with a drive extension (260), see paragraphs [0023]-[0024] of Miller et al. The Examiner's Answer maintains the position that comminution device and circulatory pump is such that the device is temporarily driven by the pump.

With regard to Appellants' arguments that the pump and device of Miller et al. are permanently engaged and thus not "temporarily driven", the Examiner's Answer asserts that no structural feature is being claimed by the limitation of "temporarily driven"; therefore, it allegedly appears to be intended use and the device of Miller et al. allegedly is capable as such since the chopper can be detached, see paragraph [0024].

Appellants respectfully traverse these positions.

First, contrary to the assertions in the Examiner's Answer, Appellants respectfully submit that the traversal arguments are commensurate in scope with the claims. Indeed, Appellants repeatedly explain that the Miller et al reference fails to disclose at least that the comminution device and the circulatory pump are operatively interconnected in a manner such that the comminution device is temporarily driven by the circulatory pump, as recited in claim 11. As explained above, Appellants have repeatedly noted that these features are important, for example, for switching the comminution device on and off as required, thereby reducing the energy consumption for driving the comminution device and also protecting the comminution device. See, e.g., page 2, lines 21-28.

Second, contrary to the assertions in the Examiner's Answer, Appellants respectfully submit that, when claim 11 is properly considered as a whole and in the context of the claim,

and given its broadest *reasonable* interpretation *consistent with the specification*, the Miller et al. reference does not anticipate the features of claim 11 simply because the device of the Miller et al. reference allegedly can be disassembled (detached/decoupled) from the pump impeller. Hence, this argument clearly is NOT moot.

Contrary to the assertions in the Examiner's Answer, Appellants respectfully submit that, when properly considered as a whole and in the context of the claim, and given its broadest *reasonable* interpretation *consistent with the specification*, claim 11 clearly defines the structural and functional relationship between the comminution device and the circulatory pump, and does not merely recite intended use. Specifically, claim 11 recites that the comminution device and the circulatory pump are operatively interconnected in a manner such that the comminution device is temporarily driven by the circulatory pump. Appellants respectfully submit that improperly interpreting this language simply to mean that the device can be dismantled or disassembled clearly renders this language meaningless in the claim, since ANY device can be dismantled or disassembled in one manner or another.

M.P.E.P. § 2111 states that during patent examination, the pending claims must be "given their broadest *reasonable* interpretation *consistent with the specification*." The Patent and Trademark Office ("PTO") determines the scope of claims in patent applications not solely on the basis of the claim language, but upon giving claims their broadest reasonable construction "in light of the specification as it would be interpreted by one of ordinary skill in the art." [...] Indeed, the rules of the PTO require that application claims must "conform to the invention as set forth in the remainder of the specification and the terms and *phrases used in the claims must find clear support or antecedent basis in the description so that the meaning of the terms in the claims may be ascertainable by reference to the description*." [...] The broadest reasonable interpretation of the claims must also be consistent with the interpretation that those skilled in the art would reach. Emphasis added Appellants.

Appellants respectfully submit that improperly interpreting this language of claim 11 simply to mean that the device can be disassembled or dismantled clearly is improper since such an interpretation renders this language meaningless in the claim, since ANY device can

be disassembled or dismantled in one manner or another. Appellants respectfully submit that it clearly is improper to interpret the language of the claims so broadly as to render the claim language meaningless.

Appellants respectfully submit that the structural and functional language of the claims is relevant for reasonably interpreting the meaning of the claim terms in the context of the claim and in light of the specification. Hence, this language reasonably should be considered when interpreting the meaning of the claim terms. As explained above, the comminution device and the circulatory pump *are operatively interconnected in a manner such that the comminution device is temporarily driven by the circulatory pump*, thereby enabling the present invention to provide important advantages of switching the comminution device on and off as required, thereby reducing the energy consumption for driving the comminution device and also protecting the comminution device. See, e.g., page 2, lines 21-28.

One of ordinary skill in the art, having read the claim in the context of the claim and having given the claim its broadest reasonable interpretation consistent with the specification, would not reasonably interpret the phrase “the comminution device and the circulatory pump *are operatively interconnected in a manner such that the comminution device is temporarily driven by the circulatory pump*” as recited in claim 11, to mean that the device simply can be disassembled or dismantled in some way.

In stark contrast to the claimed invention, the Miller et al. reference discloses that the “detachable coupling” between the second end 258b and the drive extension 260 is designed to accommodate the tolerance T in the end location of the drive extension. The “detachable coupling” is defined by the Miller et al. reference as being, for example, engaging teeth, or a shaft and spline arrangement insertable within a bore provided with a slot. When read in the context of the Miller et al. reference as a whole, the teaching of accommodating the tolerance T does not mean that the second end 258b is rotatably disengaged from the drive extension 260 such that the comminution device is disengaged from the circulatory pump. Instead, in the Miller et al. reference, the second end 258b is not fixed with respect to an axial position

(tolerance T) of the drive extension 260. However, the comminution device remains operatively rotatably engaged with the drive extension irrespective of the tolerance T.

Indeed, Appellants respectfully submit that, if the “detachable coupling” were disassembled (detached/decoupled) from the pump impeller, as alleged in the Examiner’s Answer, then the device of the Miller et al. reference clearly would not, and could not, provide the advantages of switching the comminution device on and off as required, thereby reducing the energy consumption for driving the comminution device and also protecting the comminution device. Instead, the Miller et al. reference would require the device to be physically disassembled using tools such that the device is no longer operable, and then to be reassembled with tools in order to be operable again.

Appellants respectfully submit that claimed features of a comminution device and a circulatory pump that *are operatively interconnected in a manner such that the comminution device is temporarily driven by the circulatory pump*, as recited in claim 11, clearly are different from simply dismantling or disassembling the device of the Miller et al. reference, which otherwise is intended to operate only in an assembled state.

For these reasons, the Miller et al. reference does not disclose at least “a comminution device for comminuting rinsing residue, in which the comminution device and the circulatory pump are operatively interconnected in a manner such that the comminution device is temporarily driven by the circulatory pump,” as recited in independent claim 11.

As explained above, these features are important, for example, switching the comminution device on and off as required, thereby reducing the energy consumption for driving the comminution device and also protecting the comminution device. See, e.g., page 2, lines 21-28.

For these reasons, the Miller et al. reference does not disclose all of the features of claim 11.

Dependent Claims 12-16

Appellants respectfully submit that claims 12-16 are patentable over the Miller et al. reference based on their dependency from claim 11, as well as for the additional features recited therein. Moreover, Appellant specifically submits that the Office Action is deficient for failing to answer the substance of Appellant's traversal positions.

Where the applicant traverses any rejection, the Examiner should, if he or she repeats the rejection, take note of the applicant's argument and answer the substance of it. M.P.E.P. § 707.07(f).

The Office Action very clearly does not address and answer the substance of Appellant's traversal positions with respect to at least claims 12-14 and 16. Therefore, Appellant specifically submits that the Office Action is deficient for failing to answer the substance of Appellant's traversal positions.

Appellants reiterate these traversal positions with respect to claims 12-16 below and respectfully requests withdrawal of these rejections.

Claim 14 recites inter alia "wherein the comminution device and the circulatory pump are operatively interconnected such that a drive coupling between the comminution device and the circulatory pump is made by means of a connecting shaft that is a selected one of axial displaceable and non-axially displaceable."

The Miller et al. reference very clearly does not teach these features.

Contrary to the assertions in the Office Action, the Miller et al. reference does not teach that the connecting shaft that is a selected one of axial displaceable and non-axially displaceable. Instead, as explained above, the Miller et al. reference merely discloses that the detachable coupling between the second end 258b and the drive extension 260 extending from the impeller 230 is designed to accommodate the tolerance T in the end location of the drive extension 260. The Miller et al. reference very clearly does not disclose that the comminution device is disengaged from the drive extension 260 at any time after these parts are assembled, or that the second end 258b or the drive extension 260 are selected to be one of axial displaceable and non-axially displaceable, as recited in claim 14.

For these reasons, the Miller et al. reference does not disclose all of the features of claim 14.

The Examiner's Answer dated March 17, 2010

The Examiner's Answer asserts that Appellants' arguments with respect to claim 14 are not commensurate in scope with the claims. The Examiner's Answer asserts that the claims only require that the drive coupling is either axial displaceable OR non-axially displaceable. The Examiner's Answer asserts that the Miller et al. reference teaches an axially displaceable drive coupling - both in teaching a detachable coupling and in teaching an axial tolerance.

Contrary to the assertions in the Examiner's Answer, Appellants respectfully submit that Appellants' arguments are commensurate in scope with the claims. Indeed, Appellants have argued that claim 14 recites inter alia "wherein the comminution device and the circulatory pump are operatively interconnected such that a drive coupling between the comminution device and the circulatory pump is made by means of a connecting shaft that is a selected one of axial displaceable and non-axially displaceable."

Contrary to the assertions in the Examiner's Answer, the Miller et al. reference does not teach that the connecting shaft that is a selected one of axial displaceable and non-axially displaceable. Instead, as explained above, the Miller et al. reference merely discloses that the detachable coupling between the second end 258b and the drive extension 260 extending from the impeller 230 is designed to accommodate the tolerance T in the end location of the drive extension 260. The Miller et al. reference very clearly does not disclose that the comminution device is disengaged from the drive extension 260 at any time after these parts are assembled, or that the second end 258b or the drive extension 260 are selected to be one of axial displaceable and non-axially displaceable, as recited in claim 14.

For these reasons, the Miller et al. reference does not disclose all of the features of claim 14.

The Miller et al. reference also does not teach the features of claim 15.

For example, claim 15 recites inter alia “wherein the connecting shaft is selectively axially displaceable into engagement with the circulatory pump such that a drive coupling between the comminution device and the circulatory pump is made by means of an axial displacement of the connecting shaft into engagement with the circulatory pump and a drive coupling between the comminution device and the circulatory pump is broken as desired by means of an axial displacement of the connecting shaft out of engagement with the circulatory pump.”

The Miller et al. reference very clearly does not teach these features.

In the Response to Arguments, the Office Action states that “the applicant argues that Miller et al. does not teach that the connection is broken "as desired" between the pump and drive coupling. Examiner states, Miller et al. states "the second end 258b is designed to detachably couple with a drive extension 260", paragraph [0023]. Examiner states, the detachable coupling teaches the limitations of a connection and disconnection of the axial in engagement with the pump; therefore, the applicant's arguments are not understood.”

The Miller et al. reference does not teach that the connecting shaft is axially displaceable into engagement with the pump such that the coupling is broken as desired by means of axially displacement of the shaft out of engagement with the pump.

Instead, the Miller et al. reference is designed such that the drive extension 260 rotates, or drives, the second end 258b while accommodating axial tolerance (i.e., tolerance along the axis of rotation; see, e.g., paragraph [0029], last sentence) with regard to the end of the drive extension 260 during the operation (i.e., rotation/driving) of the circulatory pump and the comminution device. The second end 258b remains rotatably engaged and driven by drive extension 260 despite axial movement of the drive extension 260 with respect to the second end 258b. See, e.g., paragraphs [0008], [0020], [0023], [0029], [0030], and [0035]. Again, the Miller et al. reference merely discloses that the detachable coupling between the second end 258b and the drive extension 260 extending from the impeller 230 is designed to

accommodate the axial tolerance T in the end location of the drive extension, not to rotatably disengage the second end 258b from the drive extension 260.

For at least these reasons, the Miller et al. reference very clearly does not disclose that the connecting shaft is selectively axially displaceable into engagement with the circulatory pump such that a drive coupling between the comminution device and the circulatory pump is made by means of an axial displacement of the connecting shaft into engagement with the circulatory pump and a drive coupling between the comminution device and the circulatory pump is broken as desired by means of an axial displacement of the connecting shaft out of engagement with the circulatory pump, as recited in claim 15.

The Examiner's Answer dated March 17, 2010

The Examiner's Answer asserts that claim 15 reads on assembling the device and then taking apart the device, irrespective of the teachings of axial tolerance, and the apparatus of Miller et al. is capable of being assembled and disassembled.

Contrary to the assertions in the Examiner's Answer, Appellants respectfully submit that, when properly considered as a whole and in the context of the claim, and given its broadest *reasonable* interpretation *consistent with the specification*, claim 15 does not read on assembling the device and then taking apart the device.

M.P.E.P. § 2111 states that during patent examination, the pending claims must be "given their broadest *reasonable* interpretation *consistent with the specification*." The Patent and Trademark Office ("PTO") determines the scope of claims in patent applications not solely on the basis of the claim language, but upon giving claims their broadest reasonable construction "in light of the specification as it would be interpreted by one of ordinary skill in the art." [...] Indeed, the rules of the PTO require that application claims must "conform to the invention as set forth in the remainder of the specification and the terms and *phrases used in the claims must find clear support or antecedent basis in the description so that the meaning of the terms in the claims may be ascertainable by reference to the description.*" [...] The

broadest reasonable interpretation of the claims must also be consistent with the interpretation that those skilled in the art would reach. Emphasis added Appellants.

Claim 15 recites inter alia “wherein the connecting shaft is selectively axially displaceable into engagement with the circulatory pump such that a drive coupling between the comminution device and the circulatory pump is made by means of an axial displacement of the connecting shaft into engagement with the circulatory pump and a drive coupling between the comminution device and the circulatory pump is broken as desired by means of an axial displacement of the connecting shaft out of engagement with the circulatory pump.” Emphasis added Appellants.

Appellants respectfully submit that improperly interpreting this language of claim 15 simply to mean that the device can be disassembled or dismantled is improper because such an interpretation clearly renders this language meaningless in the claim, since ANY device can be disassembled or dismantled in one manner or another. Appellants respectfully submit that it clearly is improper to interpret the language of the claims so broadly as to render the claim language meaningless.

Moreover, for the reasons set forth above, the Miller et al. reference very clearly does not teach these features.

For these reasons, the Miller et al. reference very clearly does not disclose or suggest the subject matter defined by claims 11-16.

Appellants respectfully request reversal of this rejection.

(8) CONCLUSION

In view of the foregoing discussion, Appellants respectfully request reversal of the Examiner's rejections.

Respectfully submitted,

/Andre Pallapies/

Andre Pallapies

Registration No. 62,246

May 5, 2010

BSH Home Appliances Corporation
100 Bosch Blvd.
New Bern, NC 28562
Phone: 252-672-7927
Fax: 714-845-2807
andre.pallapies@bshg.com

CLAIMS APPENDIX

1-10 (Canceled)

11. (Rejected) A dishwasher comprising:

a washing container for receiving items to be washed by the dishwasher;

a circulatory pump for circulating a rinsing liquid into contact with items received in the washing container; and

a comminution device for comminuting rinsing residue, the comminution device and the circulatory pump being operatively interconnected in a manner such that the comminution device is temporarily driven by the circulatory pump.

12. (Rejected) The dishwasher according to claim 11, and further comprising a safety-friction clutch, wherein a drive coupling between the comminution device and the circulatory pump is made by means of the safety-friction clutch.

13. (Rejected) The dishwasher according to claim 11, wherein the comminution device and the circulatory pump are operatively interconnected such that the drive of the comminution device is effected by means of an impeller of the circulatory pump.

14. (Rejected) The dishwasher according to claim 11, wherein the comminution device and the circulatory pump are operatively interconnected such that a drive coupling between the comminution device and the circulatory pump is made by means of a connecting shaft that is a selected one of axial displaceable and non-axially displaceable.
15. (Rejected) The dishwasher according to claim 14, wherein the connecting shaft is selectively axially displaceable into engagement with the circulatory pump such that a drive coupling between the comminution device and the circulatory pump is made by means of an axial displacement of the connecting shaft into engagement with the circulatory pump and a drive coupling between the comminution device and the circulatory pump is broken as desired by means of an axial displacement of the connecting shaft out of engagement with the circulatory pump.
16. (Rejected) The dishwasher according to claim 15, wherein the connecting shaft between the comminution device and the circulatory pump is selectively couplable to the hub of the impeller of the circulatory pump.
- 17-20. (Allowed)

EVIDENCE APPENDIX

None

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RELATED APPEALS APPENDIX

None